

REMARKS

The Second Restriction Requirement is respectfully submitted to be improper, because the Examiner has not made a *prima facie* showing that process claims 1-17 of the current invention meet the criteria for a proper restriction requirement. Particularly, the Examiner has not made a showing of a “serious burden” on the Examiner, as required by MPEP §§ 808.2 and 803. The Examiner must provide reasons and/or examples to support such a conclusion, with appropriate explanation. MPEP § 803. These reasons and/or examples are not present in the Second Restriction Requirement.

To meet the initial requirement of a *prima facie* showing for a “serious burden” on the Examiner, and thus establish a reason to insist upon restriction, the Examiner must show by appropriate explanation, one of the following: 1) a separate classification; 2) a separate status in the art; or 3) a different field of search. MPEP §§ 803, 808.02. For the Second Restriction Requirement, one of these must be shown for the above-identified application as pertaining to provisionally elected Group I (claims 1-17, drawn to a process of making a semiconductor device).

The Second Restriction Requirement mailed October 11, 2000, though, contains no mention, let alone showing by appropriate explanation, of any one of these. The Second Restriction Requirement states only that claims 1-17 are directed to “patentably distinct species.” However, the “serious burden” requirement is a requirement separate from and in addition to the “patentably

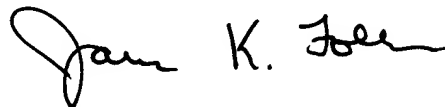
distinct” requirement. MPEP § 803. Because a *prima facie* showing for a “serious burden” has therefore not been made, Applicant is not able to, nor required to, rebut such a showing. MPEP § 803.

In any event, however, a search required for a proper examination of claims 1-6 would not be significantly different from a search required for claims 7-9, 10-13, 14-15, or 16-17, and would not require significantly different searches, due to the number of related features found in these groups of claims. For example, claims 1-6, 7-9, 10-13, 14-15 all relate to a method of manufacturing thin film transistors, and each contains all the features of independent claim 1. Furthermore, a search required for a proper examination of independent claim 16 and dependent claim 17, also relating to a manufacturing process of thin film transistors and having related features to those in claims 1-15, would not require a significantly different search.

Therefore, a proper search and examination of a method for manufacturing a thin film transistor according to claims 1-6 would at least overlap and possibly fully encompass a search and examination required for a method of manufacturing a thin film transistor according to dependent claims 7-15, as well as the method for manufacturing a thin film transistor according to claims 16-17. Accordingly, no “serious burden” would be imposed on the Examiner by the examination of the application relating to provisionally elected Group I (claims 1-17), since similar and overlapping searches are required for all of the claims.

In view of the foregoing the Applicant respectfully requests that the restriction requirement be withdrawn upon reconsideration.

Respectfully submitted,
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